

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 1:05CR80-P-D

ANTHONY CABANISS,

DEFENDANT.

ORDER

These matters come before the court upon Defendant's eighth Motion to Continue the Trial [84-1], Defendant's Fourth Motion to Suppress [83-1], Defendant's *pro se* motion to substitute counsel for the third time received by the court on September 14, 2006, and defense counsel Johnnie E. Walls, Jr.'s Motion for Leave to Withdraw as Counsel for Defendant [86-1]. After due consideration of the motions and the response filed thereto, the court finds as follows, to-wit:

The fourth motion to suppress should be denied simply because the court has already ruled upon the issues brought forth in the motion. The defendant had his day in court regarding his arguments for suppression. The rulings upon the suppression issues came down to credibility and, as it indicated orally during the hearing, the court found the officer's testimony more credible.

The eighth motion to continue should be denied since there will be no additional suppression hearing. Furthermore, defense counsel has had more than adequate time to prepare for trial of this matter and therefore another continuance is not warranted. The court has already given the defendant seven continuances.

On September 14, 2006 the court received the defendant's *pro se* motion in which he asks for the substitution of counsel. In fact, he asks the court to reappoint the same counsel the court provided him previously but for whom the defendant substituted current, retained counsel. The

defendant has already had three attorneys in this case – all of whom, in the court’s estimation, have provided the defendant effective counsel pursuant to the Sixth Amendment. The court concludes that the defendant has not demonstrated that he is entitled to new counsel for a fourth time.

As should be clear with eight motions to continue, four motions to suppress, and three requests to change lawyers, the court believes that the defendant has played the system quite enough.

Finally, the defendant’s current counsel, Johnnie E. Walls, Jr., has moved to withdraw. After consideration of the motion, the court finds that the motion should be denied.

Trial is currently set for September 25, 2006 – five days from this date. The defendant should be ready for that trial.

IT IS THEREFORE ORDERED AND ADJUDGED that:

- (1) Defendant’s Eighth Motion to Continue the Trial [84-1] is **DENIED**;
- (2) Defendant’s Fourth Motion to Suppress [83-1] is **DENIED**;
- (3) Defendant’s *pro se* motion to substitute counsel for the fourth time received by the court on September 14, 2006 is **DENIED**; and
- (4) Defense counsel Johnnie E. Walls, Jr.’s Motion for Leave to Withdraw as Counsel for Defendant [86-1] is **DENIED**.

SO ORDERED this the 20th day of September, A.D., 2006.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE